

Appln No.: 10/736,436  
Filing Date: 12/15/2003  
Atty Docket No.: 324559  
Previous Atty Docket No.: CIS03-50(7980)

Applicant(s): LI, et al.  
Examiner: KHOSHNOODI, FARIBORZ  
Group Art Unit: 2164

### **Remarks**

This communication is responsive to the Non-Final Office Action of July 11, 2008. Reexamination and reconsideration of the claims is respectfully requested.

### **Summary of The Office Action**

**Claim 22** was rejected under 35 USC 101 because the claimed invention is purportedly directed to non-statutory subject matter. Claim 22 has been amended to be a standard Beauregard claim.

**Claims 1, 3-20, and 22** were rejected under 35 USC 103(a) as purportedly being unpatentable over Hefetz et al. (United States Patent Publication No. 20040123238 A1)(Hefetz) in view of Kniest (United States Patent Publication No. 2002/0156864 A1)(Kniest).

**Claim 2** was rejected under 35 USC 103(a) as purportedly being unpatentable over Hefetz in view of Kniest as applied to claims 1, 3-20 and 22 and further in view of Anuszczyk et al. (United States Patent Publication No. 2003/0110253 A1)(Anuszczyk).

**Claim 21** was rejected under 35 USC 103(a) as purportedly being unpatentable over Hefetz in view of Kniest and further in view of Bryan et al. (United States Patent Publication No. 2002/0146015 A1)(Bryan).

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### **Response**

#### **The Claims Are Directed Towards Patentable Subject Matter**

#### **35 U.S.C. §101**

Claim 22 was rejected under 35 USC 101 because the claimed invention is purportedly directed to non-statutory subject matter. Claim 22 has been amended to be a standard Beauregard claim. Thus, the claim at issue recites "[a] computer-readable medium storing processor executable instructions operable to perform a method." This is a standard Beauregard claim that has been ruled to be statutory subject matter. In re Beauregard, 35 USPQ2d 1383 (Fed. Cir. 1995). MPEP 2106.01 also states that this claim type is statutory:

MPEP 2106.01, Section I, paragraph 2, states:

In contrast, a claimed computer-readable medium encoded with a computer program is a computer element which defines structural and functional interrelationships between the computer program and the rest of the computer which permit the computer program's functionality to be realized, and is thus statutory. See *Lowry*, 32 F.3d at 1583-84, 32 USPQ2d at 1035. (emphasis added)

Additionally, the claim recites "providing the portal page to the client system". This providing action clearly will update a physical memory. Updating a physical memory satisfies the tangible results required for 35 U.S.C. 101. The U.S. Patent Office's Board of Patent Appeals and Interferences has stated that physical subject matter includes both tangible and intangible matter, and includes electrical signals. Ex parte Bilski, Board of Patent Appeals and Interferences, Appeal number 2002-2257, (Sept. 26, 2006), see pages 6, 17, 27, 37, and 38. The updated data is clearly an electrical signal that must be stored in a tangible

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medium. The data cannot exist in a vacuum and must be physically stored somewhere (e.g., computer memory, computer-readable medium). The act of updating the data will cause a physical transformation which is, by definition, tangible. Concerning the error made by not treating the electrical signals as physical matter, The Bilksi panel wrote:

This perpetuates the misunderstanding that "transformation requires transformation of a tangible object or article, contrary to cases that explain that the subject matter transformed can be physical, yet intangible, phenomena such as electrical signals. See *In re Schrader*, 22 F.3d 290, 295 n.12, 30 USPQ2d 1455, 1459 n.12 (Fed. Cir. 1994)... *Id.* at 37. ... Thus, it is apparent that changes to intangible subject matter representative of or constituting physical activity or objects are included in this definition; citing Lundgren, 76 USPQ2d at 1398-99. *Id.* at 37. [Emphasis in original]

For these additional reasons, the §101 rejection is contrary to the MPEP, case law, and Patent Office holdings. The claim at issue clearly defines statutory subject matter and therefore Applicant respectfully requests that the rejection be withdrawn.

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**The Claims Patentably Distinguish Over The References**

Claims 1, 3-20, and 22 were rejected under 35 USC 103(a) as purportedly being unpatentable over Hefetz in view of Kniest. Claim 2 was rejected under 35 USC 103(a) as purportedly being unpatentable over Hefetz in view of Kniest and further in view of Anuszczyk. Claim 21 was rejected under 35 USC 103(a) as purportedly being unpatentable over Hefetz in view of Kniest and further in view of Bryan.

**35 U.S.C. §103**

To establish a prima facie case of 35 U.S.C. §103 obviousness, basic criteria must be met. The prior art reference (or references when combined) must teach or suggest all the claim limitations. MPEP 2143.(A) Section 2131 of the MPEP recites how "[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). This same standard applies to 103 rejections as evidenced by Section 2143(A) of the MPEP, which reads: "The rationale to support a conclusion that the claim would have been obvious is that **all the claimed elements** were known in the prior art and one skilled in the art could have combined the elements as claimed by known methods with no change in their respective functions".

Additionally, the teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in applicant's disclosure. In re Vaeck, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). This requirement is intended to prevent unacceptable "hindsight reconstruction" where Applicant's invention is recreated from references using the Application as a blueprint.

Here, the criteria for establishing a prima facie case of obviousness are not satisfied since the combination of references does not teach or suggest all the

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claim limitations. None of the references, alone and/or in combination, teach anything to do with a portal associated with a content distributed network. Therefore, none of the references, alone and/or in combination, teach making a request for a dynamic portal associated with a content distributed network. Since no request is made for a dynamic portal associated with a content distributed network, no dynamic portal is generated and no dynamic portal is provided. Thus, none of the claims are obvious for at least this reason.

Claim 1 recites a method performed in a content engine. Claim 1 was rejected over Hefetz and Kniest. Neither reference concerns a content engine. Claim 1 recites that the content engine will dynamically provide a portal in a content distributed network. Neither reference concerns a content distributed network. Hefetz describes creating a portal. However, the portal in Hefetz is not a portal associated with a content distributed network.

"Portal", as used in Hefetz, refers to a collection point for content from several enterprise applications. Consider Hefetz [0003], which reads: "A portal brings together various applications from an intranet and an extranet that may or may not be related to one another." Thus, Hefetz is referring to a collection point for output from a set of applications, not a dynamic portal page as claimed and described. The portal as claimed and described refers to "a dynamic portal page including information about both data cached and data pre-positioned at a content engine connected to the network and about data availability at the content engine." (page 3, [0008])

Claim 1 recites "receiving a request for the portal from a client system." The Hefetz portal is a location to which requests are made. The claimed portal is something that is requested. In claim 1, a request is made for a portal (e.g., dynamic web page), and that page is populated and provided to the requester. In Hefetz, a request is made to a portal application that is an access point for several

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applications. Consider Hefetz [0033], which reads: "The portal 220 receives requests from the clients 200". Clearly a request is not being made for a portal as claimed, but rather a request is being sent to a portal. This helps understand the difference between the claimed portal and the portal in the reference. Since the reference does not deal with a content engine, but rather with a collection point for disparate applications, the reference does not teach the claimed portal. Therefore, for at least this reason, the claim is not obvious over the combination of references.

Claim 1 also recites "including into the ... dynamic portion of the portal template ... links to content cached in the content engine." Since neither reference concerns a content engine in a content distributed network, it follows that neither reference says anything about adding a link to content cached in the content engine. The Office Action admits that Hefetz does not teach adding links to content cached in a content engine. Thus the Office Action relies on Kniest to provide the missing link. However, the paragraph relied on teaches nothing about adding a link to content cached in a content engine. The cited paragraph [306] is a difficult to understand sentence that reads: "Cache Forward Engine Gathers Information in Advance Uses Currently Viewed Content for Links to Other Web Sites." This difficult to parse sentence clearly does not teach "Including ... links to content cached in the content engine." It says nothing about inserting a link into a portal page, it says nothing about a content engine, and it says nothing about content cached at a content engine. For at least this additional reason this claim is not obvious and is in condition for allowance.

Claim 1 also recites "including into the ... dynamic portion of the portal template ... information about content availability". The Office Action asserts that [28] of Hefetz teaches inserting information about content availability into a portal template. It does no such thing. The cited paragraph describes putting

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placeholders into an application portal. A placeholder is not information about content availability. A placeholder has nothing to do with content availability in a content distributed network. The cited placeholders are merely related to application portal design, not to identifying content availability in a content engine associated with a content distributed network. For at least this additional reason this claim is not obvious and is in condition for allowance.

Since claim 1 has been shown to be not obvious, accordingly claims 3-11, which depend therefrom, are similarly not obvious and are in condition for allowance.

#### Claim 12

This claim is similar to claim 1. However, instead of dynamically providing a portal in a content distributed network, the claim provides a portal to a channel in a content distributed network. Thus the claim includes receiving a request for the channel portal, accessing a channel portal template, adding information to the channel portal, and providing the channel portal page to the requesting client. Since none of the references deal with a content engine and a content distributed network, it follows that none of the references take the additional actions associated with a portal to a channel in a content distributed network. For at least this reason this claim is not obvious and is in condition for allowance. Accordingly, claims 13-14, which depend therefrom, are similarly not obvious and are in condition for allowance.

#### Claim 15

This claim recites "a content engine" that "dynamically provides a portal". The portal is provided in a "content distributed network." As described above, none of the references concern a content engine or content distributed network. Hefetz describes a "selectively interpreted portal page layout template." (Title) This

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selectively interpreted page layout template is used to develop an interface to application that serves as an access point to "various applications from an intranet and an extranet that may or may not be related to one another." ([0003]. This type of "portal" is not a portal associated with a content engine in a content distributed network. Thus the Hefetz portal does not teach the claimed content engine.

Since Hefetz is not concerned with a content engine, it follows that Hefetz does not teach the claimed content engine controller that includes into the dynamic portal links to content cached in the content information. It also follows that Hefetz does not teach the claimed content engine controller that includes into the dynamic portal information about content availability. For at least these reasons this claim is not obvious over the combination of references and is in condition for allowance. Accordingly, claims 16-21 are similarly not obvious and are in condition for allowance.

#### Claim 22

This claim is a Beauregard claim that mirrors claim 1. Therefore this claim is not obvious for at least the reasons described above in association with claim 1.

#### Claim 2

This claim was rejected as being obvious over Hefetz, Kniest, and Anuszczyk. Claim 2 depends from claim 1 and therefore is not obvious for at least the same reasons. Additionally, claim 2 recites adding additional information to the portal page that is not created by the references. The additional information includes "a list of files that remain to be downloaded to the portal page with an indicator of unavailability." This additional information is gathered in response to comparing a replication status to a catalog of files in the content engine to determine what has been downloaded and what still needs to be downloaded. Since Hefetz does not concern a content engine, but rather concerns an interface

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to a set of applications, Hefetz does not teach figuring out what content is missing in the content engine. Neither of the other references remedy this deficiency. For at least this additional reason this claim is not obvious and is in condition for allowance.

The Office Action asserts that "writing the list of files that remain to be downloaded to the portal page with an indicator of unavailability" is taught in paragraph [0045] of Hefetz. Line by line analysis of this paragraph yields no such teaching. The rest of the reference is similarly void of any such teaching. The table below performs the line by line analysis.

Sentence	Teaches Writing Files To Be Downloaded To Content Engine?
The portal development tool 400 can be used to create and show the relations between different content components, including how they relate to the applications that provide the dynamic content.	No.
For example, a portal developer may create a template with two iViews, a first iView on the left in a narrow column with a list of items to select, and a second iView on the right in a wide column with details of a current item selected in the list.	No.
The portal developer can readily select which components to place on a page, set permissions and/or attributes for user-specific personalization, specify the layouts of multiple portal pages by defining the portal templates in the GUI that presents visual representations of the portal pages to be generated at run-time using the templates, and set	No.

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the structure of the content components in the templates.	
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This paragraph is completely silent about writing anything concerning pages to be downloaded. Thus it follows that the paragraph is similarly silent concerning the additional action of providing an indicator of unavailability. For at least this additional reason this claim is not obvious and is in condition for allowance.

#### Claim 21

This claim concerns a method performed in a content distributed network. The method includes providing a content engine, receiving a request at the content engine, using the content engine to access a portal template, using the content engine to manipulate the portal template, and using the content engine to provide the portal template to client system. None of the references concern a content distributed network as claimed and described. Therefore it follows that none of the references teach a content engine. Since no content engine is taught, it follows that the claimed actions performed by the content engine are also not taught. For at least these reasons this claim is not obvious and is in condition for allowance.

FROM

RECEIVED  
CENTRAL FAX CENTER

(FRI) SEP 26 2008 15:36/ST. 15:24/NO. 6302335179 P 19

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**Conclusion**

For the reasons set forth above, the claims are now in condition for allowance. An early allowance of the claims is earnestly solicited.

Respectfully submitted,



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